

RECONSTRUCTION OF AUTHORITY OF PEOPLE'S CONSULTATIVE ASSEMBLY IN THE REFORM ERA BASED ON PROGRESSIVE LAW

Ah. MujibRohmat

Gunarto

JawadeHafidz

ABSTRACT

The Reform Era pushed for an amendment to the Indonesian constitution and one of the objects of change was the People's Consultative Assembly (MPR). If before the amendment, the position of the MPR was very high and had enormous authority, after the amendment to the 1945 Constitution of the Republic of Indonesia in 1999-2002 by the MPR itself, the MPR's position decreased and its authority was greatly reduced. After the amendment ran for around 16 years, the stronger discourse and insistence of the needs to reconstruct the authority of the MPR. This is because with the limited authority, the role of the MPR is much reduced and does not have a major influence on the administration of the state. Therefore, the reconstruction of the MPR's authority is needed, both at the constitutional level and in the laws and regulations below.

Key words: reconstruction, authority, People's Consultative Assembly

A. Introduction

Prior to the amendment to the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) which was carried out at the beginning of the Reformation era (1999-2002), the MPR was the highest institution of the country with enormous power. The 1945 Constitution of the Republic of Indonesia stated that the MPR had "unlimited power".¹ This enormous power was due to the MPR being the executor of the sovereignty of the Indonesian people as stated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.²

The great MPR power can be seen from its duties and authorities as stipulated in Article 3 and Article 6 paragraph (2) of the 1945 Constitution of the Republic of Indonesia before the amendment, namely stipulating the Basic Law, setting out broad lines rather than state direction, and electing the President and Deputy President.³ In addition, the MPR is also authorized to dismiss the President and/or Deputy President during his term of office if the President and/or Vice-President are considered to violate state directions set by the Constitution or MPR (usually called impeachment).

The amendment to the 1945 Constitution of the Republic of Indonesia at the beginning of the Reformation era (1999-2002) has changed the position and authority of the People's Consultative Assembly. With the amendment to the constitution, the MPR is no longer the highest state institution that fully implements popular sovereignty [Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia]. This means that the MPR is no longer the source/institution of the highest state power that distributes its power to other state institutions.

¹Explanation of Article 3 of the 1945 Constitution of the Republic of Indonesia NRI formulates, among other things, "Because the People's Consultative Assembly holds the sovereignty of the state, its power is not limited ...". Thus the 1945 Constitution of the Republic of Indonesia before the change positioned the MPR as an institution that had unlimited power. Prior to the amendment to the 1945 Constitution of the Republic of Indonesia, the position of the 1945 Constitution of the Republic of Indonesia NRI was an integral part of the 1945 Constitution and Constitution of the Republic of Indonesia. become historical documents. In various constitutions in the world, there is no explanation.

²Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia: "Sovereignty is in the hands of the people, and is carried out entirely by the People's Consultative Assembly."

³Article 3 of the 1945 Constitution of the Republic of Indonesia before the amendment reads, "The People's Consultative Assembly establishes the Constitution and outlines of the state's direction". Article 6 paragraph (2) of the 1945 Constitution of the Republic of Indonesia before the amendment reads, "The President and Vice President are elected by People's Consultative Assembly with the most votes."

Changes to the constitutional provisions mean there are fundamental changes in our constitutional system, namely from a vertical-hierarchical system with the principle of supremacy of the People's Consultative Assembly to a horizontal-functional system with the principle of balancing and supervising between state institutions.⁴

In addition to decreasing the position of the highest state institution to become a state institution alone, the amendment to the constitution also changed the MPR's authority in the form of reduced authority. As a result, the MPR is not as strong as when the 1945 Constitution before the amendment was made. The amendment of UUD of the Republic Indonesia year 1945 gives impact MPR is no longer determine state direction and no longer authorized to elect the President and Vice President. The MPR also can no longer make MPR Decrees.

After the constitutional amendment regarding the MPR run around 16-17 years ago (constitutional changes regarding the MPR occurred in 2001 and 2002), the idea emerged that there was a need to make changes to the MPR. The substance of the discourse included the desire to restore the MPR's position as the highest state institution, authorization to the MPR to create a kind of State Policy Outlines (GBHN), and an increase in the role of the MPR in the administration of the state.

The development of thought regarding the MPR after constitutional changes around 16 and 17 years ago was a manifestation of shifts and changes in attitudes and views on the MPR. If the MPR had consciously lowered its position and reduced its authority by the MPR itself, now the spirit and ideas were revived to strengthen the MPR in the form of reinforcing its authority which in certain aspects returns as before the amendment to the constitution.

The development of discourse and the idea of strengthening the MPR emerged after seeing two things, namely the internal conditions of the MPR and the situation of state administration. As it is known, the MPR in the reform era had a much reduced role compared to the previous government era. This is because the MPR has experienced a reduction in its position and authority as a result of the amendment to the 1945 Constitution of the Republic of Indonesia which was carried out by the MPR itself at the beginning of the reform era (1999-2002).

This prompted the need for a reconstruction of the MPR's authority that had been there for it. The existing authority in accordance with the results of the amendment to the 1945 Constitution of the Republic of Indonesia is very limited, namely:

1. change and stipulate the Constitution;
2. inaugurate the President and/or Vice President; and
3. dismiss the President and/or Vice President in his term according to the Constitution.⁵

Reconstruction of the authority of the MPR is to realize justice for our nation and state so that the nation and state get optimal benefits from the existence and significant active role of the MPR in managing and improving the quality of state life and nationality as well as the implementation of the Indonesian state. It is stated that the law was for humans, for human welfare and happiness and adjusted to human needs. Not vice versa.

There are three problems that will be answered in this paper. First, what are the MPR's authorities after the amendment to the 1945 Constitution of the Republic of Indonesia? Second, what is the impact of the MPR's authority on the amendment to the constitution to the implementation of the state and the MPR institution? Third, what is the ideal reconstruction of the authority of the MPR need to be done to realize the existence of a strong MPR and a proportionally significant role based on Progressive Law while ensuring the development of democracy and the upholding of democracy?

In this study, the authors used the constructivism paradigm in an effort to answer the problem. The type of research used in this study is empirical legal research. The data sources used in this study include primary data and secondary data. The nature of this research was descriptive and prescriptive. In this study, the authors used the theory of popular sovereignty as a grand theory, the theory of the rule of law as the middle theory, and the theory of progressive law and the theory of authority as an applied theory.

B. Discussion

1. The People's Sovereignty Theory (Grand Theory)

Sovereignty is a concept that is commonly used as an object in the political and legal philosophy of the state. It contains conception related to the idea of the highest power associated with the state. In terms of language, the words of sovereignty in the Indonesian language actually come from the Arabic language, namely from the words *daulat* and *daulatan* which in its classical meaning means change, transition, or circulation (power).⁶

If viewed from various terminology sovereignty literature is generally recognized as a concept borrowed from Latin, namely *souverain* and *superanus*, which later developed into sovereign and sovereignty in English which means the highest authority

⁴General Secretary MPR, *PanduanPemasyarakatanUndang-UndangDasar Negara Republik Indonesia Tahun 1945*, SekretariatJenderal MPR, Jakarta, 2005,page. 50.

⁵Widayati, *RekonstruksiKedudukanKetetapan MPR DalamSistemKetanegaraan Indonesia*, Genta Publishing, Yogyakarta, 2015, page. 302.

⁶JimlyAsshiddiqie, *KonstitusidanKonstitusionalisme*, SekretariatJenderalandanKepaniteraanMahkamahKonstitusi, Jakarta, 2006, page. 115-116.

and authority. The most important thing about this is that technically, the concept of sovereignty is related to the highest concept of power.⁷

DahlanThaib said that sovereignty is a legal feature of the state. As an attribute of the state, sovereignty has been long, and some even argue that sovereignty may be older than the concept of the state itself.⁸

According to the sovereignty theory of the people, it is the people who have the highest power, the people are sovereign. If the government happens to carry out its duties not in accordance with the will of the people, then the people can act to replace the government.⁹

The notion of popular sovereignty in the European tradition developed from the understanding of French constitutionalism which was strongly influenced by Jean Jacques Rousseau. In connection with this theory of popular sovereignty, Rousseau introduced his theory that the basis of the state was due to the existence of social contraceptives held by and among members of society for establish a country. He believed in a mystical idea of "general will" which he considers as the basis for community agreement or social contract. According to him, the general will become a social contract based on the agreement, law and government must be established.¹⁰

In its development, Rousseau's theory which became the basis of popular sovereignty taught that the state must rely on the will of the people. Likewise, all laws and regulations are the incarnation of the will of the people. They used to form and were given the task of forming law. People obeyed the law because people had promised to obey it.¹¹

The nature of power is single, original, eternal, and cannot be divided. The sole is that the state has power. So there is no other power within the country that has the right to determine or make laws or laws. Genuine means that power does not come from other powers. So it is not taken down or given by other powers. Eternal means the one who has the highest power or sovereignty is the state and the existence of the state is eternal (forever). As for not being able to be divided means that the sovereignty cannot be handed over to other people or other bodies, either partially or entirely.¹² This People's Sovereignty Theory was also adopted by the 1945 Constitution of the Republic of Indonesia, both before and after the changes, as stated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.¹³

2. The theory of the rule of law (Middle Theory)

JimlyAsshiddiqie said that the idea of a rule of law actually had long been developed by philosophers from the Greek era. Plato, one of the leading Ancient Greek philosophers in his book the Republic stated that it was possible to realize an ideal state to achieve good with goodness. According to Plato, power must be held by people who know the good, namely a philosopher.¹⁴

The term legal state or state based on law in Indonesian literature is almost always matched with the term *rechtstaat*, *etat de droit*, the *staat* according to law, legal *staat*, and rule of law. Besides that, it is also known as the principle of socialist legality which was born from the ideology of the communists.¹⁵

The concept of a modern legal state in Continental Europe was developed using the German term, *rechtstaat*. This concept was developed by Immanuel Kant, Paul Laband, Julis Stahl, and Fichte. According to Julis Stahl, the concept of the rule of law referred to as *rechtstaat* includes four important elements, namely the protection of human rights, the distribution of power, the government based on the law and the state administrative court.¹⁶ According to other sources, as quoted by PadmoWahjono, Stahl formulated several main elements formally in a legal state.¹⁷

⁷*Ibid.*, page. 119.

⁸Widayati, *op. cit.*, page. 59.

⁹*Ibid.*, page. 60.

¹⁰AidulFitriciadaAzhari, dalamWidayati, *Ibid.*, page. 60-61.

¹¹CST KansildalamdalamWidayati, *Ibid.*, page. 61.

¹²H. Salim, *PerkembanganTeoridalamIlmuHukum*, RajawaliPers, Jakarta, 2010, page. 128-129.

¹³Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia before the amendment: "Sovereignty is in the hands of the people and is carried out entirely by the People's Consultative Assembly". The sound of Article 1 paragraph (2) results of the change: "Sovereignty is in the hands of the people and carried out according to the Constitution."

¹⁴JimlyAsshiddiqie, *Hukum Tata Negara danPilar-pilarDemokrasi*, SinarGrafika, Jakarta, 2011, page. 129.

¹⁵IrfanFachruddin, *PengawasanPeradilanAdministrasiTerhadapTindakanPemerintah*, Alumni, Bandung, 2004, page. 109.

¹⁶JimlyAsshiddiqie, *Hukum Tata Negara dan ...*, *op. cit.*, page. 130.

¹⁷Namely: recognition and protection of human rights, to protect these human rights, the state administrators must be based on the TriasPolitika theory, the government carries out its duties based on the law (*wetmatigheid van bestuur*) if the government in carrying out its duties is still violating the rights human rights (government interference in one's personal life) then there is an administrative court that will resolve it. seePadmoWahjono, *Pembangunan Hukum di Indonesia*, Ind-Hill Co, Jakarta, 1989, page. 151.

As for the Anglo American tradition, the concept of modern rule of law was developed as the rule of law spearheaded by A.V. Dicey. The concept of the rule of law is also related to the term *nomocracy* (*nomocratie*) which is given a decisive understanding in the administration of state power. Dicey formulated three important features in the rule of law, namely: rule of law, equality before the law, and due process of law.¹⁸

Hamid S. Attamimi as quoting his opinion Burkens said that the rule of law (*rechtstaat*) is simply a state that places the law as the basis of state power and the exercise of that power in all its forms is carried out under the rule of law.¹⁹ on the other hand, H.W.R. Wade stated that in the rule of law, everything must be done according to the law (everything must be done according to law), the rule of law determines, that the government must submit to the law, not the law that must submit to the government.²⁰ As for JimlyAsshiddiqie formulated 12 main principles as the main pillars that support the establishment of a rule of law.²¹

3. Progressive Legal Theory (Applied Theory)

Law expert SatjiptoRahardjo initiated philosophical thinking about the relationship between law and humans. The principle arises that the law is for humans and not vice versa. Therefore, if there are problems in and by law, laws must be reviewed and then corrected, not forced humans. to be included in the legal scheme.²²

From such thinking, the option is open to take a more progressive way that aims to find a way to overcome legal deterioration in Indonesia more significantly by making changes more quickly, making fundamental reversals, making liberations, and making breakthroughs and more. Law is not an absolute and final institution but it depends very much on how humans perceive and use it. It is the human being who is the determinant and not the law. The more a theory shifts closer to the legal factor, the more it considers the law as absolute, autonomous and final. The more shifted to humans, the more the theory wants to give space to human factors.²³

Regarding this matter, SatjiptoRahardjo mentioned that progressive law teaches that law is not a king, but a tool to describe the basis of humanity that serves to give evil to the world and people humanitarian morality.²⁴

The idea of progressive law, which later developed into a legal theory, was initiated by SatjiptoRahardjo who was troubled by the way the law was implemented in the country. In the existing notes, this idea first appeared in 2002 through an article published in the Kompas newspaper entitled "Indonesia Needs Progressive Law Enforcement", June 15, 2002 edition.²⁵

SatjiptoRahardjo is upset because even though every time the problems in the legal field arise in the nuances of transition, the implementation of the law is like normal conditions. Almost there is no smart breakthroughs in the face of the transition crisis after the New Order. According to him, the worst thing is the law is run as a routine (business as usual) but also played as 'merchandise' (business-like). As a result, the law was pushed into the slow lane and experienced quite serious congestion. From this position and point, SatjiptoRahardjo voiced the need for progressive law.²⁶

4. Theory of Authority (Applied Theory)

The term theory of authority comes from an English translation, namely authority of theory, the term used in Dutch, *theorie van het gezag*, while in German it is called *theorie der autoritat*.²⁷

Definition of theoretical authority according to H.D. Stoud is the overall rules relating to the acquisition and use of governmental authority by public legal subjects in public legal relations. There are two elements contained in Stoud's understanding, namely the existence of legal rules and the nature of legal relations.²⁸

¹⁸JimlyAsshiddiqie, *op. cit.*, page. 130.

¹⁹HR. Ridwan, *Hukum Administrasi Negara*, PT Raja GrafindoPersada, Jakarta, 2007, page. 18.

²⁰H.W.R. Wade, *Administrative Law*, Third Edition, Oxford, Clarendon Press, Oxford University, 1971, page. 6.

²¹Namely: rule of law, equality in law, legality principle, limitation of power, independent supporting organs, free and impartial judiciary, State Administrative Court, Constitutional Court, and protection of human rights, are democratic, function as a means to realize goals state, transparency and social control. see JimlyAsshiddiqie, *Hukum Tata Negara dan ...*, *op.cit.*, page. 131-132.

²²SatjiptoRahardjo, "Hukum Progresif, (Penjelajahan Suatu Gagasan)", *Newsletter* No. 59, Desember 2004, Jakarta: Yayasan Pusat Pengkajian Hukum, page.2.

²³AbintoroPrakoso, *Penemuan Hukum, Sistem, Metode, Alirandan Prosedur Dalam Menemukan Hukum*, Yogyakarta, Laks Bang Pressindo, 2016, page. 178-179.

²⁴*Ibid.*, page. 179.

²⁵Bernard L. Tanya, dkk, *Teori Hukum, Strategi Tertib Manusia Lintas Ruang dan Generasi*, Yogyakarta: Genta Publishing, 2013, edisirevisi, page. 190.

²⁶*Loc cit.*

²⁷Salim HS dan Erlies Septiana Nurbani, *Penerapan Teori Hukum pada Penelitian Tesis dan Disertasi*, Jakarta, Raja GrafindoPersada, 2013, page. 183-184.

²⁸*Ibid.*, page. 184.

Before the authority is delegated to the institution that carries it out, it must first be determined and the laws and regulations, whether in the form of laws, government regulations or lower level rules. Legal relations are related and have a relationship or connection or related to law.²⁹

Salim HS and ErliesSeptianaNurbani formulated the theory of authority as a theory that examines and analyzes the power of government organs to exercise their authority, both in the field of public law and private law. From this definition there are three elements in the theory of authority, namely: the existence of power, the existence of government organs, and the nature of the legal relationship.³⁰

Max Weber divided authority into four types, namely charismatic, traditional and rational (legal) authority, official and informal authority, personal and territorial authority, and limited and comprehensive authority.³¹

C. The Authority of the MPR before and after the Amendment to the Constitution

The MPR prior to the amendment to the constitution in the initial phase of the Reformation was a state institution that had immense power. Article 1 of the 1945 Constitution of the Republic of Indonesia before the change confirmed that sovereignty was in the hands of the people and carried out entirely by the MPR. With the formulation of this constitutional norm, the MPR has enormous power.

The 1945 Constitution of the Republic of Indonesia before the amendment governs the authority of the People's Consultative Assembly: stipulates the Constitution; establish outlines rather than state direction; and electing the President and Vice President; and dismiss the President and/or Vice-President within his term of office if the President and/or Vice-President are considered to violate the state's directions set by the Constitution or the MPR (People Consultative Assembly).

The coming of the Reformation era in 1998 led to an amendment or amendment to the Constitution of the Republic of Indonesia in 1945. The amendments to the 1945 Constitution of the Republic of Indonesia appeared because they believed that one of the causes of the widespread practice of authoritarian state administration in the time of President Soeharto was due to the weakness of the 1945 Constitution of the Republic of Indonesia. The weakness of the 1945 Constitution of the Republic of Indonesia is because it formed a constitutional structure that relies on the highest power in the hands of the MPR.

In response to these demands and along with President BJ Habibie's awareness and agreement, political parties and the People's Consultative Assembly, finally the amendment to the 1945 Constitution was made by the People's Consultative Assembly as the result of the 1999 elections. The constitutional amendment carried out by the MPR for four years began in 1999 and ended in 2002. One change in the 1945 Constitution of the Republic of Indonesia was about the MPR.

The new MPR authority in accordance with the amendment to the constitution stated in Article 3 of the 1945 Constitution of the Republic of Indonesia is to amend and stipulate the Constitution; inaugurate the President and/or Vice President; and dismiss the President and/or Vice President in his term according to the Constitution. The MPR formulas resulting from the amendment show that the authority of the MPR is far less than before.

D. Impact of MPR Authority Reduction

The MPR after the amendment to the constitution was the MPR which was very different from the MPR before the changes. Its position declined to be equal to other state institutions such as the President and the DPR and its authority was significantly reduced. This certainly affected the MPR institution, namely its reduced role in the administration of the state. The MPR can no longer participate in regulating significantly how and where to go in the administration of the country. The MPR also cannot produce various MPR Decrees as State Guidelines which are the main guidelines or assignments to other state institutions and state leaders/officials.

In the opinion of the author, after the amendment to the constitution, the MPR has the authority to:

1. Change and stipulate the Constitution;
2. Witness the oath of the President and Vice President guided by the Chairperson of the Supreme Court;
3. Decide the proposal of the House of Representatives based on the decision of the Constitutional Court to dismiss the President / Vice President in his term of office;
4. Select the Vice President of the two candidates submitted by the President in the event of a vacancy in the position of Deputy President in his term of office.
5. Choose the President and Vice-President if they both stop together from the two candidate pairs of the President and candidates for Vice-President proposed by political parties or joint political parties whose candidate pairs of President

²⁹*Loc cit.*

³⁰*Ibid.*, page. 186. The explanation is that government organs are government tools that have the duty to run the government. Legal relations are relationships that cause legal consequences. Legal consequences are the emergence of rights and obligations.

³¹Salim HS danErliesSeptianaNurbani, *Op. Cit.*, page. 187-188.

and Vice-Presidential candidates receive the first and second most votes in the previous general election, until the end of his position.

If one by one the authority is observed, then only one authority will be routinely carried out by the MPR, namely watching the oath of the President and Vice President guided by the Chairperson of the Supreme Court. The state agenda will normatively only be held once in five years. The other four authorities are situational and not necessarily occur every five years or even once every ten years.

For this reason, it is deemed necessary to reconstruct the authority of the MPR so that the role of the MPR is important and strategic in the administration of the state while maintaining and ensuring the existence of democracy, democracy and a system of mutual control and checks and balances.

E. Reconstruction of the authority of the MPR in the era of reform based on progressive law

In a limited position of authority, the existence of the MPR is not optimal and its role is not significant in the administration of the state. There is only one authority that the MPR will routinely carry out every five years, namely witnessing the oath of the President and Vice President. The authority is only ceremonial. The MPR holds a plenary session to witness the oath of the elected President and Vice President the election results are guided by the Chairman of MA (Supreme Court).

MPR is in a static and silent position without any certainty when it will carry out its other authority. The MPR is only waiting if national circumstances and conditions arise which cause the MPR to exercise its other authority. A thing that does not necessarily happen and cannot be predicted when it will happen.

On that basis, it is important to do reconstruction of the authority of the MPR with the aim that the MPR can play a more role in the administration of the state. Some of the reconstructions that the authors propose are:

1. The authority of the MPR to make the Principles of State Policy;
2. The MPR is given the authority to make the MPR Decree which is regulating;
3. The MPR is given the authority to provide an interpretation of the 1945 Constitution of the Republic of Indonesia; and
4. The MPR is authorized to hold an annual session as a state forum for submitting reports on the performance of state institutions to the people.

Various ideas for the reconstruction of the authority of the MPR above were followed up in the form of a proposed amendment to the 1945 Constitution of the Republic of Indonesia and a revision of the MD3 Act.

1. 1945 Constitution of the Republic of Indonesia

Article 3 of the 1945 Constitution of the Republic of Indonesia which previously reads:

- (1) The People's Consultative Assembly has the authority to change and stipulate the Constitution.
- (2) The People's Consultative Assembly appoints the President and/or Vice President.

The People's Consultative Assembly can only dismiss the President and/or Vice-President in his term according to the Constitution.

The article was reconstructed to:

- (1) The People's Consultative Assembly has the authority to change and stipulate the Constitution.
- (2) The People's Consultative Assembly prepares a national development planning system.
- (3) The People's Consultative Assembly witnesses the oath of the President and/or Vice President.
- (4) The People's Consultative Assembly can only dismiss the President and/or Vice-President in his term according to the Constitution.
- (5) The People's Consultative Assembly accepts reports on the implementation of duties / performance of state institutions of the President and Vice President, the People's Legislative Assembly, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, and the Judicial Commission.
- (6) The People's Consultative Assembly provides an interpretation of the 1945 Constitution of the Republic of Indonesia in the session of testing the Law in the Constitutional Court.

Reconstruction in the form of adding new norms:

Article 4A

In the exercise of its authority, the People's Consultative Assembly has the authority to make Decree of the People's Consultative Assembly.

2. Law Number 17 year 2014 concerning the MPR, DPR, DPD and DPRD (UUMD3)

Article 4 of the MD3 Act which previously reads:

- a. Change and stipulate the 1945 Constitution of the Republic of Indonesia;
- b. Inaugurate the President and/or Vice-President the results of the general election;
- c. Decides the proposal of the House of Representatives to dismiss the President and/or Vice President during his term of office, after the Constitutional Court has ruled that the President and/or Vice President are proven to have violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful and/or proven acts that the President and/or Vice President no longer fulfill the requirements as President and/or Vice President;

- d. Inaugurate the Vice President to become President if the President dies, stops, is dismissed or cannot perform his obligations within his term of office;
- e. Choose a Vice President from 2 (two) candidates proposed by the President in the event of a vacancy in the position of Deputy President in his term of office; and
- f. Select the President and Vice President if they both depart, stop, be dismissed, or cannot carry out their obligations simultaneously, from 2 (two) candidate pairs of President and candidates for Vice President proposed by political parties or joint political parties who are candidates for President and the Vice-President candidate wins the first and second most votes in the previous general election, until his term ends.

The article is reconstructed to:

- a. Change and stipulate the 1945 Constitution of the Republic of Indonesia;
- b. The People's Consultative Assembly formulates a national development planning system;
- c. Witness the oath of the president and/or vice president of the general election results;
- d. Decides the proposal of the House of Representatives to dismiss the President and/or Vice President during his term of office, after the Constitutional Court has ruled that the President and/or Vice President are proven to have violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful and/or proven acts that the President and/or Vice President no longer fulfill the requirements as President and/or Vice President;
- e. Inaugurate the Vice President to become President if the President dies, stops, is dismissed or cannot perform his obligations within his term of office;
- f. Choose a Vice President from 2 (two) candidates proposed by the President in the event of a vacancy in the position of Deputy President in his term of office;
- g. Select the President and Vice President if they both depart, stop, be dismissed, or cannot carry out their obligations simultaneously, from 2 (two) candidate pairs of President and candidates for Vice President proposed by political parties or joint political parties who are candidates for President and the Vice-President candidate wins the first and second most votes in the previous general election, until his term ends;
- h. The People's Consultative Assembly accepts reports on the implementation of the tasks/performance of state institutions of the President and Vice President, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Board, and the Judicial Commission; and
- i. The People's Consultative Assembly provides an interpretation of the 1945 Constitution of the Republic of Indonesia in the session of testing the Law in the Constitutional Court.

Reconstruction is the addition of a new article:

Article 4A

In the exercise of its authority, the People's Consultative Assembly has the authority to make Decree of the People's Consultative Assembly.

Based on the description above, it can be seen that there are several differences between the authority of the MPR before reconstruction and after reconstruction. The details of the differences are as follows.

Table 1
Norm regarding the authority of the MPR in the 1945 Constitution of the Republic of Indonesia
Before and After Reconstruction

Before Reconstruction	Weaknesses	After Reconstruction
<p>Article 3</p> <p>(1) The People's Consultative Assembly has the authority to change and stipulate the Constitution.</p> <p>(2) The People's Consultative Assembly appoints the President and/or Vice President.</p> <p>(3) The People's Consultative Assembly can only dismiss the President and/or Vice President in his term of office according to the Constitution.</p>	<p>The existing constitutional norms do not contain new authorities which are deemed appropriate to strengthen the existence of the MPR so that it is in line with the needs of the MPR which plays an effective and proportional role in the administration of the state.</p>	<p>Article 3</p> <p>(1) The People's Consultative Assembly has the authority to change and stipulate the Constitution.</p> <p>(2) The People's Consultative Assembly prepares a national development planning system.</p> <p>(3) The People's Consultative Assembly witnesses the oath of the President and/or Vice President.</p> <p>(4) The People's Consultative Assembly can only dismiss the President and/or Vice-President in his term according to the Constitution.</p> <p>(5) The People's Consultative Assembly accepts reports on the implementation of duties / performance of state institutions of the President and Vice President, the People's Legislative Assembly, the Regional Representative Council, the</p>

		Supreme Court, the Constitutional Court, the Supreme Audit Agency, and the Judicial Commission. (6) The People's Consultative Assembly provides an interpretation of the 1945 Constitution of the Republic of Indonesia in the session of testing the Law in the Constitutional Court.
	The existing constitutional norms do not contain the MPR's authority to make MPR Decrees needed so that the new MPR authorities can be carried out with a strong legal basis.	Article 3A In the exercise of its authority, the People's Consultative Assembly has the authority to make Decree of the People's Consultative Assembly.

Table 2
Norms concerning the Authority of the MPR in Law Number 17 year 2014 concerning MD3 Before and After Reconstruction

Before Reconstruction	Weaknesses	After Reconstruction
<p>Article 4</p> <p>a. Change and stipulate the 1945 Constitution of the Republic of Indonesia;</p> <p>b. Inaugurate the President and/or Vice-President the results of the general election;</p> <p>c. Decide the proposal of the House of Representatives to dismiss the President and/or Vice President during his term of office, after the Constitutional Court has ruled that the President and/or Vice President are proven to have violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful and/or proven acts that the President and/or Vice President no longer fulfill the requirements as President and/or Vice President;</p> <p>d. Inaugurate the Vice President to become President if the President dies, stops, is dismissed or cannot perform his obligations within his term of office;</p> <p>e. Choose a Vice President from 2 (two) candidates proposed by the President in the event of a vacancy in the position of Deputy President in his term of office; and</p> <p>f. Select the President and Vice President if they both depart, stop, be dismissed, or cannot carry out their obligations simultaneously, from 2 (two) candidate pairs of President and candidates for Vice President proposed by political parties or joint political parties who are candidates for President and the</p>	<p>The existing MD3 Law norms do not contain new authorities that are considered appropriate to strengthen the existence of the MPR to be in accordance with the needs of the MPR which plays an effective and proportional role in the administration of the state.</p>	<p>Article 4</p> <p>a. Change and stipulate the 1945 Constitution of the Republic of Indonesia;</p> <p>b. The People's Consultative Assembly formulates a national development planning system;</p> <p>c. Witness the oath of the president and/or vice president of the general election results;</p> <p>d. Decide the proposal of the House of Representatives to dismiss the President and/or Vice President during his term of office, after the Constitutional Court has ruled that the President and/or Vice President are proven to have violated the law in the form of treason against the state, corruption, bribery, other serious crimes, or disgraceful and/or proven acts that the President and/or Vice President no longer fulfill the requirements as President and/or Vice President;</p> <p>e. Inaugurate the Vice President to become President if the President dies, stops, is dismissed or cannot perform his obligations within his term of office;</p> <p>f. Choose a Vice President from 2 (two) candidates proposed by the President in the event of a vacancy in the position of Deputy President in his term of office;</p> <p>g. Select the President and Vice President if they both depart, stop, be dismissed, or cannot carry out their obligations simultaneously, from 2 (two) candidate pairs of President and candidates for Vice President proposed by political parties or joint political parties who are candidates for President and the Vice-President candidate wins the first and second most votes in the previous general election, until his term ends;</p> <p>h. The People's Consultative Assembly accepts reports on the implementation of the tasks / performance of state institutions of the President and Vice President, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit</p>

<p>Vice-President candidate wins the first and second most votes in the previous general election, until his term ends.</p>		<p>Board, and the Judicial Commission; and i. The People's Consultative Assembly provides an interpretation of the 1945 Constitution of the Republic of Indonesia in the session of testing the Law in the Constitutional Court.</p>
	<p>The existing law norms do not contain the MPR's authority to make MPR provisions needed so that the new MPR authorities can be carried out with a strong legal basis.</p>	<p>Article 4A In the exercise of its authority, the People's Consultative Assembly has the authority to make Decree of the People's Consultative Assembly.</p>

F. Conclusion

1. The MPR has decreased its position and reduced authority after the amendment to the 1945 Constitution of the Republic of Indonesia in the period 1999-2002. After the amendment to the 1945 Constitution of the Republic of Indonesia, the authority of the MPR was significantly reduced, ie no longer: have the authority to elect the President and Vice-President; to hold the President accountable at the end of the term of office; and make outlines rather than state direction. The remaining authority of the old authority is to change and stipulate the Constitution. The MPR's authority which is routinely carried out is to witness the oath of the President and Vice President elected election results every five years. The implementation of other authorities is not scheduled, depending on the development of the state administration which is able to fulfill the requirements for the use of the MPR's authority.
2. The reduction of the authority of the MPR has had a less favorable impact on the administration of the state and the Indonesian state administration system. The MPR can no longer have a big and strategic role in the administration of the state and provide direction in national development. There is no State Policy made by the MPR to determine the direction of the nation's management and interests in order to succeed in national development.
3. Construction of the authority of the MPR is currently considered not ideal and not in accordance with the characteristics of the most representative consultative institution in terms of membership compared to the existing representative institutions. Such MPR authority is also not in accordance with Progressive Law which requires that the law be devoted to human interests.

For these reasons, a reconstruction of MPR authority based on progressive law is needed. The reconstruction was carried out through the amendment to the 1945 Constitution of the Republic of Indonesia and the revision of Law Number 17 of 2014 concerning the MPR, DPR, DPD and DPRD (MD3 Law). Reconstruction of the authority of the People's Consultative Assembly is to add to the four new powers of the People's Consultative Assembly, namely to make the Principles of the State Policy make a Decree of the People's Consultative Assembly which regulates the interpretation of the 1945 Constitution of the Republic of Indonesia; and hold an annual session as a state forum for submitting reports on the performance of other state institutions to the people.

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Ah. Mujib Rohmat
Gunarto
Jawade Hafidz